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United States Court of Appeals for the Federal Circuit

05-3322

KEVIN M. HOFFMANN,

Petitioner,

v.

DEPARTMENT OF THE NAVY,

Respondent.

DECIDED: February 9, 2006

Before MAYER, SCHALL, and PROST, Circuit Judges.

PER CURIAM.

Kevin M. Hoffman appeals the final decision of the Merit Systems Protection Board, denying his petition for review of the board's initial decision affirming his removal from government service by the Department of the Navy. Hoffman v. Dep't of the Navy, SE0752040073-I-1 (MSPB June 9, 2005). We affirm.

We must affirm the board's decision unless it was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; obtained without procedures required by law, rule or regulation having been followed; or unsupported by substantial evidence. See 5 U.S.C. § 7703(c) (2000). In 1999, the department instituted a general

policy not to extend tours abroad beyond five years, and Hoffman had spent nine years in Japan at the time the department decided not to grant him a fifth two-year tour extension. Accordingly, the board properly found that the refusal to grant the extension was not an abuse of managerial discretion. Because Hoffman was offered and refused a position under the department's Priority Placement Program, the board properly found that his removal promoted the efficiency of the service. See 5 U.S.C. §§ 7513(a), 7701(c)(1)(B); Hayes v. Dep't of the Navy, 727 F.2d 1535, 1539 (Fed. Cir. 1984). Finally, the board correctly found that Hoffman did not establish either harmful procedural error, see 5 U.S.C. § 7701(c)(2)(A), or reprisal, see id. § 7701(c)(2)(B), in the removal decision.